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#9

MORRISON & FOERSTER LLP

Attorneys at Law
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-7000
Facsimile: (415) 268-7522

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JUL 31 2003

PETITIONS OFFICE

To: U. S. Patent and Trademark Office
Office of Petitions (Patent)

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From: Peter J. Yim**Date: July 31, 2003**

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Comments:**Re: U.S. Patent Application No. 10/066,555****For: OVERLAY MEASUREMENTS USING PERIODIC
GRATINGS****By: Joerg BISCHOFF, et al.****Our reference: 50998-2003300**

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. (703) 808-6916, on the date shown below.

Dated: July 31, 2003

Signature:

Valerie Cohen
(Valerie Cohen)Docket No.: 509982003300
(PATENT)**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:
Joerg BISCHOFF et al.

Application No.: 10/066,555

Group Art Unit: 2863

Filed: January 31, 2002

Examiner: To Be Assigned

For: OVERLAY MEASUREMENTS USING
PERIODIC GRATINGS

COMMUNICATION REGARDING PETITION FOR REVIVAL

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

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PETITIONS OFFICE

Dear Sir:

This office filed a Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing (37 CFR 1.137(f)) on May 2, 2003 (copy attached). To date this office has not received a decision from the Office of Petitions regarding the Petition for Revival.

The international application filing date of the above application is January 24, 2003 and has been assigned PCT/US03/02201.

Applicants respectfully request a report as to the status of the Petition for Revival.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant(s) petition(s) for any required relief including extensions of time and authorizes the Commissioner to charge the cost

08/08/2003 AKELLEY 00000016 031952 10066555

01 FC:1453 sf-1543459 1300 00 DA

Application No.: 10/066,555

2

Docket No.: 509982003300

of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 509982003300.

Dated: July 31, 2003

Respectfully submitted,

By 

Peter J. Yim

Registration No.: 44,417

MORRISON & FOERSTER LLP

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Attorneys for Applicant

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**To: U. S. Patent and Trademark Office
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From: Peter J. Yim

Date: May 2, 2003

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Comments:

DOCKET NO.: 509982003300

GROUP ART UNIT: 2857

EXAMINER: Not Assigned

SERIAL NO.: 10/066,555

FILING DATE: January 31, 2002

INVENTOR(S): Joerg BISCHOFF, et al.

TITLE: OVERLAY MEASUREMENTS USING PERIODIC GRATINGS

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JUL 31 2003

PETITIONS OFFICE

Papers attached:

1. Transmittal (1 Page)
2. Fee Transmittal w/duplicate copy for fee processing (2 Pages)
3. Petition For Revival of an Application For Patent Abandoned For Failure To Notify The Office of a Foreign or International Filing (2 Pages)
4. Facsimile Cover Sheet

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number Of Pages In This Submission

6

Application Number

10/086,565

Filing Date

January 31, 2002

First Named Inventor

Joerg BISCHOFF

Group Art Unit

2857

Examiner Name

To Be Assigned

Attorney Docket No.

60998-2003200

ENCLOSURES (check all that apply)

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form w/duplicate copy for fee processing (2 Pages) | <input type="checkbox"/> Assignment Papers (for an Application) | <input type="checkbox"/> After Allowance Communication to Group |
| <input type="checkbox"/> Fee Attached | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input type="checkbox"/> Amendment / Reply | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input checked="" type="checkbox"/> Petition (2 Pages) | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declarations | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
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| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Terminal Disclaimer | |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> Request for Refund | |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | <input type="checkbox"/> CD, Number of CD(s) _____ | |
| <input type="checkbox"/> Response to Missing Parts/ Incomplete Application | Remarks | |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | | |

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SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm or Individual Name: Peter J. Yim (Reg. No. 44,417)
 Morrison & Foerster LLP
 425 Market Street
 San Francisco, California 94105-2482

Signature: *Peter J. Yim*

Date: May 2, 2003

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on May 2, 2003.

Janet Holbrook
 Janet Holbrook

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FEE TRANSMITTAL for FY 2003		Complete if Known	
<i>Patent fees are subject to annual revision.</i>		Application Number	10/086,555
		Filing Date	January 31, 2002
		First Named Inventor	Joerg BISCHOFF
		Examiner Name	To Be Assigned
		Group Art Unit	2857
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Attorney Docket No.	509982003300
TOTAL AMOUNT OF PAYMENT (\$) \$1,300.00		JUL 5 1 2003	

METHOD OF PAYMENT (check all that apply)		FEE CALCULATION (continued)																																																																																																																																																																																																	
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unavoidable</td> <td></td> </tr> <tr> <td>1453</td> <td>2453</td> <td>1,900</td> <td>950</td> <td>Petition to revive - unintentional</td> <td>1,300.00</td> </tr> <tr> <td>1501</td> <td>2501</td> <td>1,300</td> <td>650</td> <td>Utility issue fee (or reissue)</td> <td></td> </tr> <tr> <td>1502</td> <td>2502</td> <td>470</td> <td>235</td> <td>Design issue fee</td> <td></td> </tr> <tr> <td>1503</td> <td>2503</td> <td>630</td> <td>315</td> <td>Plant issue fee</td> <td></td> </tr> <tr> <td>1460</td> <td>1460</td> <td>130</td> <td>180</td> <td>Petitions to the Commissioner</td> <td></td> </tr> <tr> <td>1807</td> <td>1807</td> <td>50</td> <td>50</td> <td>Processing fee under 37 CFR 1.17(q)</td> <td></td> </tr> <tr> <td>1806</td> <td>1806</td> <td>180</td> <td>180</td> <td>Submission of Information Disclosure Stmt.</td> <td></td> </tr> <tr> <td>8021</td> <td>8021</td> <td>40</td> <td>40</td> <td>Recording each patent assignment per property (Times number of properties)</td> <td></td> </tr> <tr> <td>1809</td> <td>2809</td> <td>750</td> <td>375</td> <td>Filing a submission after final rejection (37 CFR 1.129(a))</td> <td></td> </tr> <tr> <td>1810</td> <td>2810</td> <td>750</td> <td>375</td> <td>For each additional invention to be examined (37 CFR 1.129(b))</td> <td></td> </tr> <tr> <td>1801</td> <td>2801</td> <td>750</td> <td>875</td> <td>Request for Continued Examination (RCE)</td> <td></td> </tr> <tr> <td>1802</td> <td>1802</td> <td>900</td> <td>900</td> <td>Request for expedited examination of a design application</td> <td></td> </tr> <tr> <td colspan="5">Other fee (specify)</td> <td></td> </tr> <tr> <td colspan="5">*Reduced by Basic Filing Fee Paid</td> <td></td> </tr> <tr> <td colspan="5" style="text-align: right;">SUBTOTAL (3)</td> <td>\$1,300.00</td> </tr> </tbody> </table>		Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description	Fee Paid	1051	2051	130	65	Surcharge - late filing fee or oath		1052	2052	50	25	Surcharge - late provisional filing fee or cover sheet		1053	1053	130	130	Non-English specification		1812	1812	2,520	2,520	For filing a request for ex parte reexamination		1804	1804	920*	920*	Requesting publication of SIR prior to Examiner action		1805	1805	1,840*	1,840*	Requesting publication of SIR after Examiner action		1221	2221	110	55	Extension for reply within first month		1252	2252	410	208	Extension for reply within second month		1253	2253	830	485	Extension for reply within third month		1254	2254	1,450	725	Extension for reply within fourth month		1255	2255	1,970	985	Extension for reply within fifth month		1401	2401	320	160	Notice of Appeal		1402	2402	320	160	Filing a Brief in support of an appeal		1403	2403	280	140	Request for oral hearing		1451	1451	1,510	1,510	Petition to institute a public use proceeding		1452	2452	110	55	Petition to revive - unavoidable		1453	2453	1,900	950	Petition to revive - unintentional	1,300.00	1501	2501	1,300	650	Utility issue fee (or reissue)		1502	2502	470	235	Design issue fee		1503	2503	630	315	Plant issue fee		1460	1460	130	180	Petitions to the Commissioner		1807	1807	50	50	Processing fee under 37 CFR 1.17(q)		1806	1806	180	180	Submission of Information Disclosure Stmt.		8021	8021	40	40	Recording each patent assignment per property (Times number of properties)		1809	2809	750	375	Filing a submission after final rejection (37 CFR 1.129(a))		1810	2810	750	375	For each additional invention to be examined (37 CFR 1.129(b))		1801	2801	750	875	Request for Continued Examination (RCE)		1802	1802	900	900	Request for expedited examination of a design application		Other fee (specify)						*Reduced by Basic Filing Fee Paid						SUBTOTAL (3)					\$1,300.00
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1503	2503	630	315	Plant issue fee																																																																																																																																																																																															
1460	1460	130	180	Petitions to the Commissioner																																																																																																																																																																																															
1807	1807	50	50	Processing fee under 37 CFR 1.17(q)																																																																																																																																																																																															
1806	1806	180	180	Submission of Information Disclosure Stmt.																																																																																																																																																																																															
8021	8021	40	40	Recording each patent assignment per property (Times number of properties)																																																																																																																																																																																															
1809	2809	750	375	Filing a submission after final rejection (37 CFR 1.129(a))																																																																																																																																																																																															
1810	2810	750	375	For each additional invention to be examined (37 CFR 1.129(b))																																																																																																																																																																																															
1801	2801	750	875	Request for Continued Examination (RCE)																																																																																																																																																																																															
1802	1802	900	900	Request for expedited examination of a design application																																																																																																																																																																																															
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SUBTOTAL (3)					\$1,300.00																																																																																																																																																																																														

SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	Peter J. Yim	Registration No. (Attorney/Agent)	44,417
Signature	<i>Peter J. Yim</i>	Telephone	(415) 268-8373
		Date	May 2, 2003

SF-1494759

PTO/BB/64a (05-03)

Approved for use through xx/xx/200x, OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL
FILING (37 CFR 1.137(f))**Docket Number (Optional)
509982003300

First named inventor: Joerg BISCHOFF, et al.

Application No.: 10/066,555

Art Unit: 2857

Filed: 1/31/02

Examiner: Not assigned

Title: OVERLAY MEASUREMENTS USING PERIODIC GRATINGS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (703) 308-6916

FAX RECEIVED

JUL 31 2003

PETITIONS OFFICE

COPYNOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).

PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION
UNDER 37 CFR 1.137(b)

1. Petition fee

☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☒ Other than small entity - fee \$ 1300.00 (37 CFR 1.17(m))

2. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c))

Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after filing. The filing date of the subsequently-filed foreign or international application is January 22, 2003.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/84a (05-03)

Approved for use 12/22/2001. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

[NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

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May 2, 2003

Date

Telephone

Number: 415-268-6373Peter J. Yim (Reg. No. 44,417)

Signature

Peter J. Yim

Typed or printed name

425 Market Street

Address

San Francisco, CA 94105-2482Enclosures: ☐ Fee Payment☐ Additional sheets containing statements establishing unintentional delay☒ Other: Fax cover sheet 1 pg., transmittal 1 pg.;
fee transmittal (in duplicate)

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.May 2, 2003

Date

Janet Hollrah

Signature

Janet Hollrah

Type or printed name of person signing certificate